

BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF INSURANCE  
HELENA, MONTANA

---

IN THE MATTER OF:	)	CASE NO. 2001-5
	)	
THE PROPOSED DISCIPLINARY	)	
TREATMENT OF ROXANNE M. WOOD,	)	
	)	
Respondents.	)	

---

NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY FOR HEARING  
(LICENSE DISCIPLINE AND ADMINISTRATIVE FINE) TO:

**ROXANNE M. WOOD**  
**1731 PINE CONE DRIVE**  
**BILLINGS, MT 59101**

PLEASE TAKE NOTICE

Staff of the Insurance Division of the office of the State Auditor and Commissioner of Insurance of the state of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Montana Code Annotated (1999) (MCA), is proposing to the Commissioner that he take disciplinary action against the entities named above for violations of the Montana Code. The Commissioner has authority to take such action under the provisions of Sections 33-1-102, 33-1-317, 33-17-406, and 33-17-1001, MCA.

In particular, the staff is recommending action against the insurance producer's license of **ROXANNE M. WOOD** and that appropriate fines be imposed on the entity named above.

Service of process is pursuant to section 33-1-314, MCA.

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such disciplinary treatment.

#### ALLEGATIONS

1. On or about December 19, 2000, Roxanne M. Wood (hereafter "Wood") sent a printed facsimile to a potential client with her handwritten note indicating that a competitor was suffering from "financial instability". Exhibit A;
2. On or about January 2, 2001, Wood admitted to sending the facsimile to the potential client. Wood went further in her letter to the department to allege that her competitor regularly conducted his business through misrepresentation;
3. On or about January 12, 2001, the department requested specific documentation from Wood regarding her continuing education;
4. To date, Wood has failed to provide the requested documentation.

#### CONCLUSIONS

5. Wood is in violation of § 33-18-302, MCA, by making, publishing, disseminating and circulating a written statement which is false and derogatory of the financial condition of an insurer and was calculated to injure a person engaged in the business of insurance;

6. Wood is in violation of § 33-1-315, MCA, by failing to respond to requests for information and documentation from the commissioner;
7. Wood is in violation of § 33-17-1001 (1) (c) and (f), MCA, by violating the Insurance Code (Title 33) and for using dishonest practices in the conduct of affairs under her license.

RELIEF SOUGHT

8. For each violation of § 33-18-302, MCA, the agency seeks imposition of a fine against Wood not to exceed the sum of \$5,000 pursuant to § 33-1-317, MCA;
9. For violating § 33-1-315, MCA, the agency seeks imposition of a fine against Wood not to exceed the sum of \$5,000 pursuant to § 33-1-317, MCA;
10. For violating §§ 33-18-302 and 33-1-315, MCA, the agency seeks an order for suspension of Wood's producer's license pursuant to § 33-17-1001 (1) (c) and (f), MCA.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner

pursuant to the Montana Administrative Procedure Act, sections 2-4-601, MCA, and following, including Section 2-4-631, MCA. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing. Pursuant to section 33-1-701(2), the hearing shall be held within 30 days after the commissioner receives a demand for hearing, unless postponed by mutual consent.

If you want to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within fifteen (15) days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Roberta Cross Guns, Insurance Attorney, State Auditor's Office, P.O. Box 4009, Helena, Montana 59604-4009. Your letter to Ms. Cross Guns, must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to section 2-4-603(2), Mont. Code Ann., you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license.

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the requirements of

Application of American Smelting and Refining Co., (1973), 164  
Mont. 139, 520 P.2d 103.

CONTACT WITH INSURANCE COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Roberta Cross Guns, legal counsel for the State Auditor, at P.O. Box 4009, Helena, MT, 59604-4009, (406)-444-5234 or, within Montana, (800)332-6148. If you are represented by an attorney, please make any contacts with this office through your attorney.

POSSIBILITY OF DEFAULT

Failure to give notice or to advise of your demand for a hearing or form of informal procedure within fifteen (15) days, will result in the entry of a default order imposing the disciplinary sanctions against you and your license, without further notice to you, pursuant to 6.2.101, Administrative Rules of Montana and the Attorney General's Model Rule 10, 1.3.214.

DATED this 5<sup>th</sup> day of March, 2001.

MARK O'KEEFE  
State Auditor and  
Commissioner of Insurance

By: Roberta Cross Guns  
Roberta Cross Guns  
Insurance Attorney

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY FOR HEARING (LICENSE DISCIPLINE AND ADMINISTRATIVE FINE) to the following persons by depositing the same in the U.S. Mail, certified, return receipt requested, on this 5 day of MARCH, 2001.

TO: ROXANNE M. WOOD  
1731 PINE CONE DRIVE  
BILLINGS, MT 59101

Paula Sautter  
State Auditor's Office

BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF INSURANCE  
HELENA, MONTANA

IN THE MATTER OF: ) CASE NO. 2001-5  
 )  
THE PROPOSED DISCIPLINARY ) CONSENT AGREEMENT  
TREATMENT OF ROXANNE M. WOOD, )  
 )  
Respondent. )

TO: ROXANNE M. WOOD  
1731 PINE CONE DRIVE  
BILLINGS, MT 59101

I.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Montana Code Annotated (1999) (MCA), determines that there is probable cause to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. On or about December 19, 2000, Roxanne M. Wood (hereafter "Wood") sent a printed facsimile to a potential client with her handwritten note indicating that a competitor was suffering from "financial instability";
2. On or about January 2, 2001, Wood admitted to sending the facsimile to the potential client. Wood went

CONSENT AGREEMENT  
Roxanne Wood

further in her letter to the department to allege that her competitor regularly conducted his business through misrepresentation;

3. On or about January 12, 2001, the department requested specific documentation from Wood regarding her continuing education;
4. To date, Wood has failed to provide the requested documentation.

#### CONCLUSIONS

1. Wood is in violation of § 33-18-302, MCA by making, publishing, disseminating and circulating a written statement which is false and derogatory of the financial condition of an insurer and was calculated to injure a person engaged in the business of insurance;
2. Wood is in violation of § 33-1-315, MCA by failing to respond to requests for information and documentation from the commissioner;
3. Wood is in violation of § 33-17-1001 (1) (c) and (f), MCA by violating the Insurance Code (Title 33) and for using dishonest practices in the conduct of affairs under her license.



II.

Roxanne Wood stipulates and consents to the following:

A. To pay a \$500 fine;

B. To a probationary period of one (1) year during which time Wood shall abide by every relevant provision of the Insurance Code found in Title 33 of the Montana Code Annotated, including all relevant administrative rules;

C. To agree that should she violate any relevant provision of the Insurance Code or the relevant administrative rules within the one (1) year probationary period, Wood will submit her license to a six (6) month suspension following opportunity for a hearing and an adverse finding on such violation, in addition to any disciplinary action resulting from the additional violation;

D To comply with the insurance code of Montana;

E. To waive the right to a hearing on the above-mentioned allegations and by entering into this consent Roxanne Wood neither admits nor denies the substance of the allegations of the Commissioner but knowingly and with the understanding that if this matter were to have proceeded to hearing that it was likely that Roxanne Wood would have been found liable for the commissioner's allegation;

CONSENT AGREEMENT  
Roxanne Wood

F. That Respondent states that she has read the foregoing Consent Agreement, that she knows and fully understands its contents and effect. She has been advised of: her right to be represented by legal counsel and if represented by legal counsel, acknowledges that her legal representation was satisfactory; her right to a hearing in this matter; her right to present evidence and arguments to the Commissioner; and her right to appeal from an adverse determination after hearing. **She understands that by signing this Consent Agreement she waives those rights in their entirety;**

G. Respondent understands that the Consent Agreement is part of the file, which is a public record. As a public record it may not be sealed. Also, she understands that the State Auditor develops press releases based on these Consent Agreements on a routine basis and sends them to the news organizations in the state of Montana; and

H. It is further understood that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

CONSENT AGREEMENT  
Roxanne Wood

III.

Pursuant to the stipulation and consent of Roxanne Wood, the Commissioner, under authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the terms and conditions of this Consent Agreement are fully met, he will not initiate any civil or administrative action against Roxanne Wood regarding the allegations contained therein pursuant to Sections 33-1-317 and 33-17-1001, MCA. In consideration for the Commissioner not initiating any civil or administrative action, Roxanne Wood fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

DATED this 14th day of July, 2000.

  
RESPONDENT

CONSENT AGREEMENT  
Roxanne Wood

Subscribed and Sworn to before me this 9<sup>th</sup> day of July, 2001.

( S E A L )

Karen H. Huggins  
Notary Public for the  
State of Montana  
Residing at Billings, MT  
My commission expires 3-20-2002

JOHN MORRISON  
State Auditor and  
Commissioner of Insurance

By: Roberta Cross Guns  
Roberta Cross Guns  
Staff Attorney

CONSENT AGREEMENT  
Roxanne Wood